

states, constitute less than 10 per cent and possibly not more than 5 per cent of the total amount of business done by common carriers. This is the statement of railroad representatives. Therefore, if the regulation of state rates causes disaster, this disaster is the result of state commissions reducing intrastate rates with such moderation that the state rates can not be established by the carriers as being confiscatory; for if a rate is reduced so low that it is confiscatory the courts will set it aside. Therefore, only non-confiscatory rates, established by state commissions comprising not more than 2½ per cent of the carriers' business, (for more than 50 per cent of the state rates are voluntarily established by carriers) are charged with being responsible for car shortage, inadequate services and facilities and a cessation of railroad construction. To state the proposition refutes the claim.

SOME MORE OF COLONEL THOM

An impressive statement made by Colonel Thom in his argument before the senate and house committees and frequently repeated in his public addresses and magazine articles is to the effect:

"That the present system of governmental regulation of common carriers had its genesis in the abuses of the past and is based on the principles of repression, correction and punishment, rather than on constructive principles. The conflict between the theory that railroads were private enterprises and the theory of the public character of the instrumentalities of commerce was a victory won in anger and the terms which were imposed were the terms of the victor upon the vanquished."

The terms imposed "by the victor over the vanquished," so dramatically described by Colonel Thom, were contained in the interstate commerce act of April, 1887; but the dramatic effect of the statement is lost by being unfortunately staged; for the act of 1887 was so emasculated by the federal courts that it necessitated the comparatively recent amendments of the Hepburn act of 1906 and the Mann-Elkins act of 1910 to clothe the interstate commerce commission with sufficient authority to justify its existence as a regulating board.

RAILROAD CONSTRUCTION

State regulation of common carriers has been charged as the direct cause of a lack of railroad construction. From Bulletin No. 2, issued by the railway executives' advisory committee we lift the following extract:

"Mr. Thom showed that while New Jersey has 31 miles of railroad per 100 square miles of territory, the average for the United States is only 8.53 miles and in Idaho there are only 3.35 miles per 100 square miles. Pointing to a large map of Idaho, he showed the territory in that state containing a vast wealth of agricultural and mineral lands as yet untouched.

"Less than 33 per cent of the resources of the state now have railroad facilities," Mr. Thom said."

All such statements must be analyzed with their relation to the demand of common carriers, to-wit: The elimination of state control and regulation; for conditions complained of are not pertinent, unless they are the result of "the dual system of regulation."

Now, Wyoming, which joins Idaho, is one of the states that never had a railroad commission until 1916; and which has never attempted to exercise any regulation or control over common carriers. Idaho (with state regulation) has 2,748 miles of railroad and 83,888 square miles of territory; while Wyoming (without state regulation) has 97,914 square miles of territory and only 1,820 miles of railroad.

Carriers advertise the fact that in 1916 there were only 1,000 miles of railroad built in the United States. If this is true, the state of California, which has the most complete and effective system of state regulation of any state in the nation, can claim the credit of having constructed within its borders one-fifth of the entire mileage built in the United States in the year 1916.

INSOLVENCY OF RAILROADS

The carriers have widely advertised the insolvency of the railroads as a basis for demanding the elimination of state regulation. Arguments before the senate and house committees and articles in newspapers and magazines,

friendly to railroad companies, proclaim that the insolvency of the railroads of the country is conclusive evidence that "the dual system of regulation" must cease and that freight rates must be increased.

On June 30, 1915 (the latest statistical reports available) 85 railroads, representing 23,834 miles of road, were in the hands of the receiver. The total railroad mileage in the United States is about 253,000. Some of these roads which are in the hands of the receiver have been investigated and the cause of their insolvency exposed; notably the Rock Island with 5,366 miles and the Frisco with 3,522 miles of road. These two roads, comprising one-third of the mileage of the insolvent railroads in the United States, met their disaster under such circumstances that the public conscience was shocked by the exposure of the fraud and corruption which brought about their ruin.

No railroad representative can cite, or has cited, to a single road that is now in the hands of the receiver in which a public investigation was held where any testimony was produced to the effect that the insolvency of the road was due to state or federal regulation or control. The two largest roads in the hands of the receiver above mentioned became insolvent manifestly from lack of governmental regulation and supervision.

Of the 85 roads in the hands of the receiver there are 55, each of which is less than 10 miles in length. If to the roads above mentioned there is added the mileage of the Pere Marquette (1,792) which had issued \$28,500,000 in stocks, common and preferred, and which in addition thereto had created an indebtedness of \$90,854,809 at the time it went into the hands of the receiver; and the mileage of the Chicago & Eastern Illinois Railroad Company (1,005) which had outstanding common and preferred stocks of \$25,817,800 and had incurred an indebtedness of \$70,072,200 at the time it went into the hands of the receiver; and the mileage of the Wabash Railroad Company (1,951) which had outstanding common and preferred stock of \$92,400,427 and had incurred an indebtedness of \$126,110,107 at the time it went into the hands of the receiver; and the mileage of the Western Pacific Railroad Company (942) which had issued common and preferred stock to the amount of \$75,000,000 and had incurred an indebtedness of \$92,923,370 at the time it went into the hands of the receiver; we find that only 23 roads will remain, representing 7,178 miles. The success of a short-line road usually depends upon its contract with the trunk line with which it connects, hence the receivership of so many of the short-line roads. With this record can "the dual system of regulation" be charged with the insolvency of the roads in the hands of the receivers?

THE REVENUES OF THE CARRIERS

In Colonel Thom's statement before the joint committee of congress his attitude concerning freight rates, as the subject relates to the demand of common carriers to be relieved from state regulation and control, is not quite clear. From Bulletin No. 6 we lift the following extract taken from Mr. Thom's statement:

"Not one cent of revenue is to come to the railroads from this investigation. This is not a rate hearing. This is a question whether you are to allow a reorganization that will allow us to meet unprosperous years as well as the prosperous. We ought not to wait for a time of disaster to seek a method of relief from disaster."

From Bulletin No. 3 we lift the following: "We all know," said Colonel Thom, "that the courts have been full of cases where state-made systems of rates have been attacked because the railroads regarded that they did not escape the line of confiscation, but that they were actually confiscatory in their character. We all recognize the fact that the cases which have charged confiscation in this country have been almost entirely cases in regard to state-made systems of rates and seldom in regard to nation-made systems."

THE CARRIERS' SHELL-GAME

For a definition of shell-game the reader is referred to Webster. Its victims are secured by the apparent fairness of the game, but the ball is always under the other shell, to the profit of the operator. Through the skill of the best talent obtainable the railroads' pleas to the public are always plausible, assuming their statements

to be correct. Nevertheless, if the facts develop a contrary premise they still insist upon the same conclusion, to-wit: That freight rates should be raised. As in the shell-game, it does not matter which shell you choose, you lose. So with the railroads, it does not matter what facts are developed, rates should be raised.

Just prior to the European war the eastern carriers made a demand before the federal commission for an increase in freight rates based upon the allegation that they needed more revenue to purchase sufficient equipment to handle the enormous business which the growing commerce of the country required. Their demands did not meet with success. Within a short time thereafter the European war arose and their demands were renewed, based upon the allegation that business depression created by the war had stopped traffic and depleted their revenues. Thus we see the carriers alleging that they had too much business; subsequently, that they had too little business; and yet both allegations resulted in the same demand for an increase in freight rates. Their second demand proved quite profitable; but was granted under conditions aptly described by Commissioner Clements in his dissenting opinion found in Volume 32, page 337, interstate commerce commission reports:

"I am not aware of any prior case in which this commission, or any court has held that the need by a carrier of money was of itself proof of the reasonableness of a specific rate, or body of rates, increased to meet such need. The commission has repeatedly held that the commercial necessities or interests of a particular shipper, community, or kind of industry, considered alone, afford no basis for the reduction of rates, and that it can not in any case reduce the same except upon an affirmative showing of unreasonableness, after full hearing. In any considerable group of carriers there are probably always some that are in need of more money than they earn, when such need is tested by their obligations, or the disposition of the proceeds thereof. If the basis of the conclusions of the majority of the commission sanctioning these rates in trunk line territory is sound, and points to the rule of action for the future, the burden placed by the law upon the carriers to justify increases in rates is indeed made light and easy to carry, especially when by concerted action, a group of carriers, some strong and some weak, simultaneously propose to increase the great body of their rates.

"If the legislative authority of the commission is as broad and unrestricted as this, then I must confess that I have gravely misunderstood the limitations upon our statutory authority as well as the constitutional power of congress to delegate its legislative power."

THE PROSPERITY OF THE CARRIERS

The prosperity of common carriers is eloquently proclaimed by the following table which shows the incomes available for dividends earned by the railroads named in the fiscal years of 1915 and 1916.

Union Pacific, 1915, 11 per cent; 1916, 15.65 per cent. This road has 11 masters; it runs through 10 states.

Southern Pacific, 1915, 7.2 per cent; 1916, 11 per cent. This road has 9 masters; it runs through 8 states.

Atchison, 1915, 9.2 per cent; 1916, 12.3 per cent. This road has 14 masters; it runs through 13 states.

Northern Pacific, 1915, 7.58 per cent; 1916, 10.47 per cent. This road has 8 masters; it runs through 7 states.

Chicago & St. Paul, 1915, 7.71 per cent; 1916, 11.97 per cent. This road has 12 masters; it runs through 11 states.

North Western, 1915, 7.55 per cent; 1916, 11.4 per cent. This road has 8 masters; it runs through 7 states.

The "Soo Line," otherwise known as the Chicago, Milwaukee & St. Paul, 1915, 7.87 per cent; 1916, 16.3 per cent. This road has 11 masters; it runs through 10 states.

Illinois Central, 1915, 6.27 per cent; 1916, 10.8 per cent. This road has 14 masters; it runs through 13 states.

L. & N., 1915, 6.8 per cent; 1916, 19.4 per cent. This road has 13 masters; it runs through 12 states.

Pennsylvania, 1915, 8.5 per cent; 1916, 11

(Continued on Page 20.)